

Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 IO-13 DHA-02 CIAE-00 DODE-00 PM-05
H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01
SP-02 SS-15 USIA-06 SCA-01 AID-05 IGA-02 ACDA-07
TRSE-00 /091 W
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P R 191530Z AUG 77
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC PRIORITY 6134
INFO AMEMBASSY ASUNCION
AMEMBASSY BRASILIA
AMEMBASSY LA PAZ
AMEMBASSY LIMA
AMEMBASSY MONTEVIDEO
AMEMBASSY BUENOS AIRES

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E.O. 11652: GDS
TAGS: SHUM PINT PGOV CI
SUBJECT: THE DINA/CNI TRANSFORMATION

REF: A) SANTIAGO 6642, B) SANTIAGO 6664

1. SUMMARY: THE LAW CREATING THE NATIONAL INFORMATION CENTER (CNI) DELETES FROM ITS CHARTER THE BLANKET ARREST AND DETENTION AUTHORITY OF ITS PREDECESSOR NATIONAL INTELLIGENCE DIRECTORATE (DINA) AND PLACES CNI MORE CLEARLY WITHIN THE MINISTRY OF INTERIOR. IT DOES HAVE A LOOPHOLE GIVING CNI CERTAIN DETENTION POWERS UNDER THE ARMS CONTROL ACT AND, IN OUR JUDGMENT, DOES NOT ESTABLISH THE CNI'S ORGANIZATIONAL POSITION AND RESPONSIBILITIES CLEARLY ENOUGH TO ENSURE THAT IT WILL BE MERELY AN INTELLIGENCE COLLECTION AGENCY. IN MOST OTHER RESPECTS THE FUNCTIONS AND THE LANGUAGE OF THE DECREES ESTABLISHING DINA IN 1974 AND NOW CNI

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ARE ALMOST IDENTICAL. WHETHER THE GOC INTENDS FUNDAMENTALLY TO CHANGE ITS INTERNAL SECURITY MODUS OPERANDI DEPENDS LESS ON THE LEGAL FRAMEWORK (DECREES CAN BE IGNORED), THAN ON A VARIETY OF FACTORS SUCH AS EVENTS IN CHILE, DECISIONS BY PRESIDENT PINOCHET, FORCES AT WORK WITHIN THE GOC AND THE EXTERNAL ENVIRONMENT. THE DECREES ABOLISHING DINA AND ESTABLISHING THE CNI ARE

PROBABLY BEST SEEN AS ANOTHER INDICATOR THAT THE FACTORS IN PLAY ARE FORCING A CURTAILMENT, HOWEVER CAUTIOUS, OF THE SECURITY SERVICES: END SUMMARY

2. DETENTION AUTHORITY: ARTICLE 10 OF DECREE LAW 521, WHICH CONVERTED DINA FROM AN INTELLIGENCE COORDINATING COMMITTEE INTO A FULL FLEDGED ORGANIZATION, SAID THAT THE JUNTA COULD AUTHORIZE DINA TO CONDUCT SEARCHES AND ARRESTS (ARTICLES 9-11 OF DL 521 WERE PRINTED IN A "LIMITED", I.E., SECRET, EDITION OF THE OFFICIAL GAZETTE ON SEPTEMBER 26, 1974). NO COMPARABLE ARTICLE APPEARS IN DL 1878. ON THE OTHER HAND, ARTICLE 8 OF BOTH LAWS REFERS TO THE ARMS CONTROL ACT OF 1974 (17,798) ENABLING DINA/CNI TO BE USED IN ARMS CONTROL OPERATIONS. IN TURN, THE SPECIFIC PROVISION OF THE ARMS ACT REFERS TO THE PENAL PROCEDURES CODE AND PERMITS THE MILITARY SERVICES AND CNI TO CONDUCT SEARCHES, TAP PHONES AND TO DETAIN PERSONS IF AUTHORIZED BY A MILITARY JUDGE.

3. SINCE THE ARMS CONTROL ACT HAS SERVED TO "LEGALIZE" MANY OF THE POLITICAL/SECURITY ACTIONS TAKEN IN THE PAST, THIS PROVISION OF THE NEW DECREE CAUSES CONCERN AMONG GOC CRITICS. A KNOWLEDGEABLE GOC EXPERT, IN A PRIVATE CONVERSATION WITH EMBOFFS, INSISTED, HOWEVER, THAT THE REQUIREMENT FOR WARRANTS--EVEN THOUGH ISSUED BY A MILITARY JUDGE--WOULD SERVE AS AN EFFECTIVE RESTRAINT ON CNI'S ACTIONS IN THIS AREA.

4. THE NEW DECREE, JUST LIKE THE OLD ONE, INSTRUCTS THE DIRECTOR OF CNI TO PREPARE A "CLASSIFIED" INTERNAL REGULATION. CRITICS FEAR THAT SUCH A REGULATION MIGHT INCLUDE DETENTION AUTHORITY. IF SO, IT WOULD BE COMPLETELY ILLEGAL IN CHILEAN JURISPRUDENCE; WE DO NOT THINK SUCH A SUBTERFUGE IS IN THE WORKS.

5. ORGANIZATIONAL RELATIONSHIPS: IT WILL BE RECALLED THAT DL 521 MADE DINA DIRECTLY RESPONSIBLE TO THE FOUR-MAN GOVERNING JUNTA. IN PRACTICE, OF COURSE, ITS DIRECTOR, COL MANUEL CONTRERAS, ESTABLISHED AN INTIMATE RELATIONSHIP WITH PRESIDENT PINOCHET. THIS HAS IN A SENSE NOW BEEN RATIFIED. THE NEW DECREE HAS CNI REPORTING TO THE "SUPREME GOVERNMENT" (WHICH OUR GOC LEGAL EXPERT SAYS IS TO BE INTERPRETED NARROWLY AND MEANS THE PRESIDENT)

RATHER THAN TO THE JUNTA. WHEREAS WITH DINA THERE
WAS AN ADMINISTRATIVE PRO-FORMA LINK WITH THE
INTERIOR MINISTRY (FOR EXAMPLE, REQUESTS TO DINA

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FOR INFORMATION WENT TO INTERIOR AND, WHEN ANSWERED,
CAME BACK ON INTERIOR MINISTRY STATIONARY). THE
CNI DECREE SEEMS TO ESTABLISH A SOMEWHAT MORE
FORMAL ORGANIZATIONAL RELATIONSHIP (SE VINCULA)
WHICH MEANS, WE ARE TOLD, THAT CNI'S ORDERS WILL
COME TO IT THROUGH THE MINISTRY AS WELL.

6. HOWEVER, THE GOC STILL HAS NOT RESOLVED THE
DILEMMA OF POSITIONING A MILITARY ORGANIZATION
WHIN THE CIVILIAN BUREAUCRACY. CNI, JUST LIKE
DINA, IS TO BE A "SPECIALIZED MILITARY ORGANIZATION".
UNLIKE DINA, CNI IS AN "INTEGRAL PART OF THE
NATIONAL DEFENSE", ITS PERSONNEL (MILITARY AND
CIVILIAN) ARE SUBJECT TO MILITARY JUSTICE, AND ITS
DIRECTOR CANNOT BE SUBPOENAED TO APPEAR BEFORE A
CIVILIAN COURT ALTHOUGH HE MUST GIVE A WRITTEN
DEPOSITION ON REQUEST. CRITICS SAY THIS INSULATION
OF CNI FROM THE CIVILIAN JUDICIARY VITIATES EFFECTIVE
CONTROL OVER THE ORGANIZATION. THERE MAY BE ANOTHER
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SIDE, HOWEVER.

7. IN PRACTICE, DINA EMPLOYEES WERE NOT CALLED TO ACCOUNT BEFORE ANY BAR OF JUSTICE--MILITARY OR CIVIL. OUR PRO-GOVERNMENT EXPERT, HIMSELF A MILITARY JUDGE IN THE PAST, SAYS THAT MILITARY JUSTICE IS Surer AND STRICTER THAN CIVILIAN. REFERRING TO A MILITARY JUDGE'S FINDING THAT DINA HAD LIED TO THE COURT IN ORDER TO JUSTIFY ITS ATTACK ON THE HOUSE HIDING SHEILA CASSIDY IN 1975 (SEE SANTIAGO 5683), HE SAID A CIVILIAN COURT WOULD NOT HAVE DARED TO MAKE THE SAME RULING. THERE MAY BE SOME TRUTH TO THIS ASSERTION.

8. WHO WILL HEAD CNI: WE HAVE NO GOOD INDICATION AS YET THAT CONTRERAS WILL BE REPLACED AS HEAD OF THE NEW ORGANIZATION. HOWEVER, THE NEW DECREE MAKE POSSIBLE THE APPOINTMENT OF A CARABINERO OFFICER - SOMETHING THE DINA DECREE DID NOT. OUR LEGAL EXPERT SPONTANEOUSLY MADE MUCH OF THIS POINT, SUGGESTING THAT SK WOULD HELP BRIDGE THE GAP BETWEEN THE MILITARY'S INTERNAL SECURITY ROLE AND THE POLITICAL/POLICE ROLE OF THE INTERIOR MINISTRY.

THIS MAY BE A HINT OF GOC PLANS TO HAVE A CARABINERO RUN CNI.

9. SCOPE OF OPERATIONS: THE TWO DECREES ASSIGN THE RESPECTIVE ORGANIZATIONS VERY SIMILAR FUNCTIONS. WHEREAS DINA WAS TO "PRODUCE" INTELLIGENCE BEARING ON NATIONAL SECURITY AND "DEVELOPMENT OF THE COUNTRY" (I.E. THE ECONOMY), CNI IS TO "BRING TOGETHER" INTELLIGENCE BEARING ON NATIONAL SECURITY AND THE "NORMAL UNFOLDING OF NATIONAL ACTIVITY AND MAINTENANCE

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OF THE INSTITUTIONAL ORDER". WHILE ECONOMIC AFFAIRS SEEM TO HAVE BEEN DROPPED, THE FUZZY CURRENT DESCRIPTION APPEARS EVEN BORADER. WHETHER THERE IS A DIFFERENCE BETWEEN "BRINGING TOGETHER" AND "PRODUCING" INTELLIGENCE, AS SPECULATED BY THE LOCAL PRESS, DOES NOT STRIKE US AS VERY IMPORTANT.

10. FOR THE REST, THE TWO DECREES ARE STRIKINGLY SIMILAR. LEST ANYONE NOT RECOGNIZE THE SIMILARITIES, THE CHRISTIAN DEMOCRATS HAVE BEGUN CIRCULATING A FLYER LAYING BOTH DECREES SIDE BY SIDE. THERE

IS AN ARTICLE BY ARTICLE CORRESPONDENCE EXTENDING EVEN TO THE SECRET ARTICLES OF 521 WITH THE NOTABLE EXCEPTION OF THE ARREST AND DETENTION PROVISION.

1. COMMENT: THE GOC CANNOT HELP BUT RECOGNIZE THAT IT MUST PERSUADE ITS SKEPTICAL FRIENDS OF ITS SINCERITY IN "DISSOLVING" DINA. AS THE GOC STATED IN MAKING ITS ANNOUNCEMENT, DINA HAD "COMPLETED THE DELICATE MISSION SET FOR IT". SHOULD THIS REFORM PROVE TO BE NO MORE THAN A CHANGE IN NAME, THE GOC WILL STAND TO LOSE IRREPARABLY. THE OUT- CRY IN RESPONSE TO DINA'S BRIEF RECIVIDISM IN MAY SHOULD HAVE SENSITIZED THE GOC TO THE NEED FOR MEANINGFUL CHANGES IN THE HANDLING OF ITS INTERNAL SECURITY PROBLEMS. IF THE CNI DOES OPERATE LEGALLY, AS A COLLECTOR OF INFORMATION, IT WILL BE MOPE BECAUSE OF THIS REALITY THAN THE RESTRAINTS IMPOSED BY ITS LEGAL CHARTER.

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